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From vocational training to education: the development of a no-frontiers education policy for Europe?

Nigel Johnson
Principal Lecturer in Law, Division of Law, Sheffield Hallam University, Collegiate Crescent Campus, Sheffield, S10 2BP, UK

ABSTRACT *This article focuses on developments towards an EU educational policy. Education was not included as one of the Community competencies in the Treaty of Rome. The first half of the article analyses the way that the European Court of Justice and the Commission of the European Communities between them managed to develop a series of substantial Community programmes out of Article 128 on vocational training. The second half of the article discusses educational developments in the community following the Treaty on European Union and the Treaty of Amsterdam. Whilst the legal competence of the community now includes education, the author's argument is that the inclusion of an educational competence will not result in further developments to mirror those in the years before the Treaty on European Union. If the 1980s were a decade of expansion, the medium-term future is likely to be one of consolidation.*

Introduction

This article focuses on the importance of education and training, and assesses the extent to which the European Community (EC) has developed this area of policy. Whilst more could have been done by the Community, we should not deny the extent of progress so far within the EC in respect of education and vocational training. The Treaty of Rome excluded education from Community competence, but

there was a weak Community competence with regard to vocational education. Unsurprisingly, the reasons for this lack of visibility are primarily political. Education is a profoundly ideological issue, with Nation States extremely reluctant, for political and cultural reasons, to cede sovereignty in favour of European integration. So, whilst Europe seems to have evolved as a matter of economic policy in favour of free trade and widening market scope for business organisations, education is seen as a matter of social policy and one which should properly fall exclusively within the domestic jurisdiction of the Member States:

> The small attribution of Community competence in the field of education expresses the realisation that in general it is considered a State competence, being linked to national cultural development. The European Court confirmed in Gravier that the organisation of education and teaching policy are not as such within Community competence. This rules out the direct creation or control of educational institutions. (Lombay,1989).

Like so many matters, this initial reluctance to extend Community competence into education has not survived the more recent federalist tendencies within the Community. The Treaty of European Union (TEU), and now the Treaty of Amsterdam, provide a much firmer legal basis for Community competence in relation to education as well as vocational training. In this article we shall explore the potential for future development. But first of all we must show how far the Community had already come in terms of developing an education policy out of a vocational educational competence.

The developments towards a 'Community-friendly' education system.

Whilst the Rome Treaty may not have seen education as an area for Community competence the paucity of constitutional jurisdiction was not the end of the matter. There were other ways forward; in particular Article 128 of the Treaty of Rome on vocational education. Article 128 states:

> The Council shall, acting upon a proposal from the Commission and after consulting the Economic and Social Committee, lay down general principles for implementing a common vocational training policy capable of contributing to the harmonious development both of the national economies and of the common market.

A programme for action to implement Article 128 was first agreed by the Council of Ministers as long ago as 1963 (Decision 63/266/EEC [1963]). This action programme mainly concerned member states' responsibility for providing training for all, as well as training throughout working life. In 1975 the Council established the European Centre for the Development of Vocational Training. Interestingly, CEDEFOP was established under Article 235 EEC (the "residual powers" article) rather than Article 128 (Shaw 1992). CEDEFOP has operated since 1976 and has three main functions: to serve as a centre for initiating and co-ordinating research activities; to support the Community institutions and to serve as a platform for all the main parties involved in initial and continuing training (Piehl, 1989).

Education, as such, did not figure on the EC agenda until later. In 1973 education was included within the portfolio of one of the members of the Commission with the

establishment of Directorate General (DG) XII on Research, Science and Education (Beukel, 1994). In 1976, a resolution of the Council and Ministers of Education meeting within the Council of 9 February 1976 established a programme of action on education:

> This resolution represents the real foundation of cooperation. It marked the start of Community work which has been progressively extended through the adoption of new texts, but which already called for improved information on education systems and their comparability, and the improvement of language teaching, as the foundation stone for better mutual understanding. (Commission, 1993).

Until the mid-eighties Article 128 EEC was described as “all but a dead letter.” (Flynn, 1988). Subsequently the development of the Single European Market and the onset of mass unemployment meant that the issue of vocational training gained in importance with the need to provide trained workers able to operate across national frontiers. In 1982 education was moved from DGXII to DGV linking up with Employment and Social Affairs (Sprokkereef, 1993). By the mid-1980s, Article 128 was used as the constitutional basis for a large range of Community programmes on aspects of vocational training including: COMETT (co-operation between higher education and industry, Decs. 86/365/EEC, [1986]); EuroTechNet (training for technological change, Decs. 89/657/EEC, [1989]); ERASMUS (mobility of university students, Decs. 87/327/EEC, [1987]); LINGUA (language training, Decs. 89/489/EEC. [1989]); TEMPUS (training for youth in Central and Eastern Europe, Decs. 90/233/EEC, [1990]); PETRA (initial work training, Decs. 87/569/EEC, [1987]); and FORCE (continuing training and retraining, Decs. 90/267/EEC, [1990]) (Wyatt

and Wood, 1983). These programmes created a form of ”soft law” (Shaw, 1992); where the Commission intervenes in education indirectly through offering a “carrot” of financial incentives designed to encourage pan-European educational initiatives (Hervey, 1997), thus creating “ ...a platform for EC intervention into the further and higher education systems of member states.” (Freedland,1996).

These programmes consumed substantial budgets. ERASMUS II was provided with 192 million ECU for the period 1990 - 1994; COMMETT II was granted 200 million ECU for the same period, as was LINGUA (Beukel 1994). However as Barnard (1996) states:

> These training schemes form part of a wider strategy relating to education and vocational training which has been developed only gradually by the Commission as a result of an insecure legal basis.

We must, therefore, now deal with the issue of how the ECJ and the Commission managed to develop a Community basis for intervention from “an insecure legal basis”. In contrast to the “soft law” provisions referred to above, what follows is a discussion of how the ECJ created a number of directly enforceable legal rights in the sphere of education for three categories of European citizen: children of workers, workers, and students (Craig & De Burca, 1998). The rights allocated to migrant workers and their children arose logically from the Treaty right of free movement of workers (Article 48EEC) and the Single Market right of free movement of persons

(Single European Act, Article 8A). The educational rights of migrant students were justified legally in the same way, albeit that this required some ingenuity by the ECJ, as we shall see below.

Children of migrant workers

Clearly if freedom of movement was to be granted to workers from one EC state who wished to reside and work in another EC state then it follows that there should be no discrimination against either the worker or family members. Accordingly Community secondary legislation, which implements Article 48EEC, provides that "the children of a national of a Member State, who is or has been employed in the territory of another Member State, shall be admitted to courses of general education, apprenticeship and vocational training under the same conditions as the nationals of that State, if the children reside in its territory." (Article 12(1) of Regulation 1612/68/EEC).

The principle of equality of educational opportunity for the children of migrant workers, and hence the inclusion of education within the competence of Community institutions, was established by the famous *Casagrande* decision as long ago as 1974 (Case 9/74, *Donato Casagrande* v. *Landeshauptstadt Munchen* [1974] ECR 773; De Witte 1989). *Casagrande* established two important matters. First of all, the interpretation of Article 12 of Regulation 1612/68. The ECJ held that it was

discrimination contrary to Community law to refuse to provide the son of an Italian migrant worker the right to claim a grant to enable the son to continue at school.

> *Casagrande* has thus extended the reach of article 12 ...from a guarantee of non-discriminatory access to education into a sweeping general principle of non-discrimination or 'national treatment' in educational matters. (De Witte, 1989).

In order to achieve such a wide interpretation the ECJ had to decide first of all whether the Council: "... by including educational provisions in a regulation implementing the free movement of workers, had not overstepped the substantive limits of Community competence." (De Witte,1989). The ECJ decided that:

> ...although educational and training policy is not as such included in the spheres which the Treaty has entrusted to the Community institutions, it does not follow that the exercise of powers transferred to the Community is in some way limited if it is of such a nature as to affect the measures taken in the execution of such a policy such as that of education and training.

Secondly, the *Casagrande* formula went far beyond a technical decision on conditions applying to free movement of workers, by laying down the important principle that "education is not a taboo area from which Community involvement is entirely excluded." (De Witte,1989). Subsequent case law has established that Article 12 applies even when the working parent has returned home or dies (Cases 389-90/87, *Echtermach* and *Moritz* [1989] ECR 723), and that Article 12 applies to 'children' who were over 21 and non-dependent on their parents (Case C-7/94,

Labor Gaal [1995 ECR 1-1031). In this way Community law guarantees to the children of migrants formal equality with children of the host state in respect of access to the education system (Cullen, 1996).

Migrant workers

The educational advantages accorded to migrant workers by Community law also arise out of the free movement of workers provision. Thus by virtue of Article 7(3) of Regulation 1612/68 migrant workers shall "by virtue of the same right and under the same conditions as national workers, have access to training in vocational schools and retraining centres." Whilst the ECJ defined the notion of a "vocational school" quite restrictively in *Lair* (case 39/86, [1988] ECR 3161), so as to exclude university education, the ECJ interpreted the entitlement of the migrant worker under Article 7 (3) of Regulation 1612 to "social advantages" on an equal basis with national workers broadly so as to include both vocational training and education.

However, because the "social advantage" accorded by Article 7 (2) to a migrant worker is potentially quite wide the ECJ has tried to limit entitlement to Article 7 (2) to genuine workers and where there is a causal relationship between the genuine work and the objectives of the education or training course in question. A Nation State may be prepared to allow one of its nationals, to drop out of employment in order to retrain or enhance their career prospects by taking a qualification which is related to their work. However, States with relatively generous educational provision would not

want to have to fund a situation where migrant students took up temporary employment in order to qualify for educational opportunities at the expense of the host State. Were such claimants genuine workers who were qualified to take advantage of the "social advantage" provision of Article 7 (2) or were they really migrant students? If so, were migrant students entitled to take advantage of the principle of non-discrimination in educational benefits, including maintenance grants? These were precisely the issues that came before the ECJ in *Brown* (Case 197/86 *Brown v. Secretary of State for Scotland* [1988] ECR 3205) and *Lair* (Case 39/86, *Lair v. University of Hanover* [1988] ECR 3161) as we shall see below.

Migrant students.

Whilst migrant students *per se* did not seem to be able to benefit from the principle of free movement of workers, in fact they have been accorded similar rights by the ECJ using a combination of Article 7 EC (now Article 6), which lays down the principle of non-discrimination on grounds of nationality and a wide reading of the definition of vocational training policy in Article 128 EEC.

A series of ECJ decisions found that in respect of vocational courses, any attempt to charge EC students higher tuition fees than nationals was contrary to Article 7 and Article 128. In *Forcheri* (Case 152/82, *Forcheri v. Belgium* [1983] ECR 2323) the Italian spouse of an Italian migrant worker in Belgium was entitled to a vocational training course in Belgium without having to pay fees levied on non-Belgians. Whilst

this decision was entirely in line with previous decisions in relation to migrant workers and their families, the decision in *Gravier* (Case 293/83, *Gravier v. City of Liege* [1985] ECR 593) took the argument a giant step further.

Francoise Gravier was a French national who wanted to study strip-cartoon art over the border in Belgium. She was charged an enrolment fee, or *minerval,* which was not levied on Belgian nationals. She challenged this fee on the basis of Article 7 EEC. On the basis of previous decisions and Community law as it stood it might have been predicted that she should have lost. She was not entitled to educational rights as a migrant worker or as the family member of a migrant worker as in *Forcheri,* and as education was not a matter of Community competence then it might be thought that Article 7 would only apply to discrimination on matters within the competence of the Community.

The ECJ decided that as vocational training was covered by the Treaty, then the imposition of this charge on non-national students was discrimination contrary to Article 7. The logic of the court ran thus:

> ... although educational organization and policy are not as such included in the spheres which the Treaty has entrusted to the Community institutions, access to and participation in courses of instruction and apprenticeship, in particular vocational training are not unconnected with Community law.
>
> ...Access to vocational training is in particular likely to promote free movement of persons throughout the Community, by enabling them to obtain a

> qualification in the Member State where they intend to work and by enabling them to complete their training and develop their particular talents in the Member State whose vocational training programmes include the special subjects studied.
>
> It follows ... that conditions of access to vocational training fall within the scope of the Treaty.

Vocational courses were given a very broad definition by the ECJ, quite in contrast to the narrow definit*ion given to "vocational schools" in the context of Article 7(3) of Regulation 1612. In Blaizot* (Case 24/86, *Blaizot v. University of Liege* [1986] ECR 379), the ECJ was not prepared to exempt university education from the concept of vocational training, which it had defined in *Gravier* as covering:

> ... any form of education which prepares for a qualification for a particular profession, trade or employment or which provides the necessary skills for such a profession, trade or employment is vocational training whatever the age and level of pupil or student.

According to the ECJ in *Blaizot* the only exceptions to this sweeping definition of vocational education were "certain special courses of study which, because of their particular nature, are intended for persons wishing to improve their general knowledge rather than prepare themselves for an occupation."

> The European Court, however, has enlarged the scope of Community Law. Prompted, it appears by the Commission, it has sought to establish something approaching a Community education policy and it has done this by extending the principle of non-discrimination to cover almost all students. (Green *et al.,* 1991).

Such decisions opened up the possibility of student movement from countries with little financial support for access to higher education to countries like the UK and

Belgium with relatively generous provision. Accordingly, in *Brown* and *Lair* the ECJ, on purely pragmatic policy grounds, retreated from this position by contriving to draw a distinction between tuition fees and maintenance grants, ruling that the latter generally fell outside Community competence.

From an economic point of view, it is possible to make out an argument for the logic of these cases. However, from a purely legal point of view, the logic is harder to follow. The ECJ has dismantled some of the barriers preventing the free movement of workers, but the fact that student maintenance grants are not transferable across member state boundaries is a real barrier to the mobility of students. Having established that vocational training incorporates most aspects of higher education and that therefore students are entitled to equal access in respect of fees, the ECJ then holds that the same does not apply to maintenance grants. Fees are a matter of EC competence - maintenance is not!

> ...At the present stage of development of Community law assistance given to students for maintenance and for training falls in principle outside the scope of the EEC Treaty for the purposes of Article 7. It is, on the one hand, a matter of educational policy, which is not as such included in the spheres entrusted to the Community institutions ... and, on the other, a matter of social policy, which falls within the competence of the Member States in so far as it is not covered by specific provisions of the EEC Treaty. (*Lair v. University of Hanover* Case 39/86, [1988] ECR 3161).

The decisions in this line of cases were to establish the principle of intervention in education by the ECJ, on the basis of promoting a policy of integration of migrant workers and students in Member States (Houghton-James, 1993). However in *Brown* and *Lair* the ECJ stopped short of extending the principle of non-discrimination against migrant students in relation to fees to maintenance grants which would have had serious implications for the Member States. It was in this context that the ERASMUS scheme for the mobility of university students was born:

> The Court of Justice played a decisive part in shaping the precise role of article 128 EEC as the cornerstone of a surprisingly extensive Community vocational training policy. Through its decision in *Gravier v. City of Liege,* the Court of Justice pushed the Council into adopting the ERASMUS programme co-ordinating the movement of students in Higher Education within the European Community; the alternative to such planned movements would be unco-ordinated movements with students taking advantage of the rights they derived under the Treaty to freedom of movement, rights of residence and equality of access to educational facilities using Articles 7 and 128 EEC read together. (Shaw, 1994).

In 1988 the Council's decision to set up the ERASMUS programme, using both Articles 128 and 235 as the legal basis, was challenged by the Commission on the grounds that "the Erasmus programme unlawfully affected national educational policy (a matter within the competence of the Member States) by financing the establishment of University networks." (Hervey, 1997). Not only did the Commission believe that the Articles used did not provide for a Community competence in education but, no doubt, also believed that the development of cross-European university networks were contrary to the ECJ's ruling in *Casagrande.* The ECJ

decisively rejected the Commission's argument. Universities had participated in ERASMUS voluntarily without any compulsion by the European institutions. As Lombay commented "There is here a clear utilisation by the Community of the funding "carrot" method of increasingly centralised influence on education, thus avoiding the pitfalls of direct normative action." (Lombay, 1989). Confirming its previous jurisprudence the ECJ decided not only that ERASMUS came within the definition of common vocational training policy, but also that most ERASMUS activities in universities would fall within Article 128. (Case 342/87 *Commission v. Council* [1989] ECR 1425). The ECJ clearly felt that it did not want to put a break on the development of a Citizens' Europe, stating that there was a strong link between free movement of persons and common vocational policy. This decision of the ECJ clearly added further legitimacy to developments in vocational education, so that now: "There can be little doubt that almost all university education is now covered within the concept of vocational training." (Lombay, 1989).

(Twin Track Europe) Education in European Union law after Maastricht

The Treaty on European Union transformed this *de facto* position of a developing Community competence in education into a *de jure* one. A new chapter, 'Education, Vocational Training and Youth', was added to the Treaty of Rome. This new chapter contained a new Article 126 which brought education as such within the competence of the Community for the first time. Vocational training was dealt with by new Article

127. Driving the new system forward was a new Directorate-General for Education, Vocational Training and Youth (DG XXII).

Article 126 says that “the Community shall contribute to the development of quality education by encouraging cooperation between Member States ...” and that Community action shall be aimed at:

- developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;
- encouraging mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study:
- promoting cooperation between educational establishments;
- developing exchanges of information and experience on issues common to the education systems of the Member States;
- encouraging the development of youth exchanges and of exchanges of socio-educational instructors;
- encouraging the development of distance education.

These objectives extended Community competence into areas of education, such as pre-school, primary, secondary and Higher Education courses which do not equip students for a particular occupation, which did not come within even the expanded definition of vocational education [Hervey, 1997]. Article 127 was aimed more

narrowly at vocational training and explicitly retains the recent jurisprudence of the ECJ. Its objectives are:

- to facilitate adaptation to industrial changes, in particular through vocational training and retraining;
- to improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;
- to facilitate access to vocational training between educational or training establishments and firms;
- to develop exchanges of information and experience on issues common to the training systems of the member states.

Decision-making in relation to education and youth policies under the Maastricht Treaty was by qualified majority in the Council of Ministers. Education was covered by the co-decision procedure (Article 189b) and vocational training by the cooperation procedure (Article 189c). Both of these procedures governed the relationship between the European Parliament and the Council of Ministers, seeking to address the “democratic deficit”. Essentially the difference between these two procedures is that under the co-decision procedure the European Parliament has an effective veto on matters relating to education. The importance of this procedure can be seen in relation to the other areas to which it applies - culture, health, consumer protection, trans-European networks, research and technology and environmental

protection. However, this confusing position has been rendered largely academic now that the Treaty of Amsterdam has virtually abolished the cooperation procedure. “Most of the articles now subject to cooperation will be governed by the co-decision procedure of Article 189b.” (Langrish, 1998).

The relationship between Article 127 and 127 had been regarded as being of some significance (Lemaerts, 1994). At the time that the TEU was passed there was much speculation as to whether future educational developments at Community level would be based on Article 126 or 127. Both Articles had their champions. For example, it was argued that, whereas in the past the Commission and ECJ developed a Community competence by expanding the concept of vocational training, in the future, they would prefer to proceed under Article 126, which is broad enough to cover pre-school, primary, secondary and higher education including many of the schemes such as ERASMUS, COMETT etc. which were previously justified under the definition of vocational training:

> The more democratic decision-making procedure, based on an increased contribution from the European Parliament, is plainly the "co-decision" procedure newly introduced by the Union Treaty (Article 189B), which applies to education. It follows that whenever education and vocational training are considered at the same time, preference should be given (according to the Court's case law) to Article 126 as the sole legal basis for the relevant Community policy. (Lemaerts, 1994).

Interestingly enough, whereas the LEONARDO programme on vocational training was based on Article 127, as one would expect, the SOCRATES programme was justified on the bases of both Articles. It seems that even after the TEU the borderline between education and vocational training remained blurred, with much depending on the attitude taken by both the Commission and the ECJ to the interpretation of Articles 126 and 127 in the light of particular policy initiatives.

Even more important than the legislative procedures, is the relationship between Community education and training policies and Member States' policies. The price that Member States extracted for the inclusion of education into the Treaty was its limitation by the principle of subsidiarity. There is now a much clearer separation of powers between the Commission and the Member States. Article 126 states that:

> The Community shall contribute to the development of quality education by encouraging co-operation between Member States and, if necessary, by supporting and supplementing their action, whilst fully respecting the responsibility of member states for the content of teaching and the organisation of educational systems and their cultural and linguistic diversity.

Measures taken under Articles 126 and 127 are limited in that whilst action can be taken at a European level it can only "support and supplement" action taken by Member States. Additionally, responsibility for the content of what is taught and the form of their education systems is clearly the sole prerogative of the individual Member State. This has led some commentators to the conclusion that " the new

provisions have weakened Community competence in education and training rather than reinforcing it ... on the grounds that the new Articles expressly exclude any notion of harmonisation and pledge respect for national laws and practices, following the principle of subsidiarity." (Milner, 1998).

In the 1990s the momentum of the pre-Maastricht developments has been maintained by the Commission in the form of a number of policy documents, such as: the Green Paper on the European Dimension of Education (Commission, 1993); culminating in the Education White Paper "Teaching and Learning: Towards the Learning Society" (Commission, 1995); the White Paper on "Growth, Competitiveness and Employment" (Commission, 1994); and the introduction of the LEONARDO Da Vinci vocational programme in 1994 (Decs. 94/819/EC [1994]) and the SOCRATES educational exchange programme in 1995.

Of particular importance is the Leonardo Da Vinci Programme. LEONARDO, as we have seen, is based on Article 127 (vocational education) and is designed to implement the objectives laid down in the White Papers and to enable the Community to respond to the challenge of a different labour market, the need to improve employability and social cohesion, the need to improve European competitiveness, the impact of industrial and technological change (the Information Society) and the need to develop life-long learning and promote the concepts of personal development, social competence and active citizenship (Leonardo, 1999a).

LEONARDO builds upon the earlier PETRA, FORCE, EUROTECNET AND COMETT programmes, as well as elements of the LINGUA and IRIS programmes. It aims to develop vocational training policies to aid the development of a competitive workforce. LEONARDO stems from a Decision of the European Union Council of Ministers adopted on 6 December 1994, and is based on Article 127 of the Treaty. The programme is designed to last until 31 December 1999 with a budget of ECU 620 million. The general objectives of the programme are as follows:

- to improve the quality of vocational training actions and promote vocational training;
- to improve the ability of training providers to meet demand from the business world;
- to encourage vocational training curricula and partnerships;
- to support and supplement national vocational training policies and initiatives (Leonardo, 1999).

Strand I supports the improvement of vocational training systems and arrangements in the Member States through transnational pilot projects and transnational exchanges and placements. Strand II supports the improvement of training actions, aimed at companies and employees (including university/enterprise co-operation) through transnational pilot projects and transnational exchanges and placements.

Strand III supports the development of language skills, knowledge and dissemination of innovation in training.

Returning to education, the Memorandum on Higher Education looks at the role of higher education within the Community. In particular it mentions the need to create a European education to match the European expectations of graduates. The agenda for the future is defined as follows: participation in and access to higher education; partnership with economic life; continuing education; open and distance education and the European dimension in higher education

The main programme in the education sphere is the SOCRATES programme which has a budget of ECU 850 up to 1999. SOCRATES is based on the ERASMUS higher education programme which provided for the mobility of 500,000 young students, as well as the LINGUA, EURIDICE, NARIC and ARION programmes and supplements them with a new schools programme COMENIUS. SOCRATES interacts with other European initiatives, especially LEONARDO and the Youth for Europe III exchange programme, with a budget of ECU 126 million up to 1999 (Weidenfeld & Wessels, 1997).

Specific objectives of SOCRATES laid down by the Decision creating the programme, are:

- to develop the European dimension in education;

- promote improved knowledge of European languages;
- to promote the intercultural dimension of education;
- to enhance the quality of education by means of European cooperation;
- to promote mobility of teaching staff and students;
- to encourage the recognition of diplomas, periods of study and other qualifications,
- to facilitate the development of an open European area for cooperation in education;
- to encourage open and distance education in the European context;
- to foster exchanges of information on educational systems and policy.

Since its adoption in 1995, the SOCRATES has facilitated the involvement of 1,500 universities and 10,000 schools in European partnerships and activities. The SOCRATES programme promotes European cooperation in six areas:

- Higher Education (ERASMUS)
- School Education (COMENIUS)
- promotion of language -learning (LINGUA)
- open and distance learning (ODL)
- adult Education
- exchange of information and experience on educational systems and policy.

The White Paper “Teaching and Learning: Towards a Learning Society” builds on the objectives laid down in Articles 126 and 127, laying down the following objectives:

1. encourage the acquisition of new knowledge;
2. bring schools and business sector closer together;
3. combat exclusion;
4. develop proficiency in three European languages;
5. treat capital investment and investment in training on an equal basis.

In summary, Sprokkereef (1993) lists the major current goals in EC education policy as:

- encouraging international co-operation, exchange and mobility;
- improving foreign-language learning;
- introducing a European dimension so as to promote attitude changes regarding European integration;
- recognizing academic and professional diplomas and certificates by all member states;
- stimulating relations between institutions of higher education and industry;

- improving the quality of teaching and introducing new, information-technology based methods of training.

If the 1990s have been a decade when the Community‘s ability to develop new programmes to integrate education at the supra-national level have been strictly limited, the existing SOCRATES and LEONARDO programmes have been consolidated, refined and expanded. In 1998 the Commission developed proposals to extend the present SOCRATES and LEONARDO programmes which are designed to end on 31 December 1999, from 1 January 2000 to the end of 2004. The proposals envisage a 60% increase over the present programmes. (Commission, 1998).

Conclusions

> Since the 1960’s, Community action in education and training has had significant results in terms of cooperation, exchanges of experience, supporting innovation and the development of training products and materials. It has also boosted decisively European mobility of students and people in training. It has also contributed to the promotion of learning Community languages and to the development of communication between European citizens.... (Commission, 1995).

Community policy towards education has gone through three distinct phases. In the first phase (1963-1980s) vocational education was seen as a matter of employment policy, but was pursued in a weak way. In the second phase (1980-1992) “there was a gradual shift of balance towards the development of EC vocational policy through

educational institutions as a matter of educational policy." (Freedland, 1996). In the third phase (1992 onwards) this "twin track" system is confirmed by the introduction of Articles 126 and 127 by the TEU.

Within these historical phases are some distinct matters of significance. First of all we have observed how the TEU did not introduce a new Treaty competence in respect of education from nowhere, but built on a classic bootstrap operation by the Commission and, especially, the ECJ, who had continuously intervened in educational policy from what were fairly flimsy legal foundations of (the old) Article 128. Of course this is not the only area in which the ECJ has intervened on the basis of a weak Community competence. One could argue that this is indeed the role of a court, such as the ECJ, which has the constitutional task of "filling in the gaps" of what is essentially a framework treaty. This role may be more properly filled by political actors (i.e. the Council), but from the mid-sixties to the Single European Act the political scene was nigh on moribund; so the ECJ, no doubt, felt that they were the only body who could act.

Secondly, as Freedland has shown, there has been a shift in power within the Community whereby vocational education is seen less as an arm of employment policy and much more as an arm of education policy. In this was there has been a subtle shift of emphasis away from the social partners to educational institutions.

However we must not make too much of these trends. Especially we must not see the TEU and the Treaty of Amsterdam as the basis for another decade of expansionary policies in the sphere of education. The 1980s were a period of expansion, with both the ECJ and the Commission expanding the notion of vocational education and taking it forward into higher education as they developed a policy of free movement of students to mirror that of free movement of workers. The 1990s, however, are a decade of codification and consolidation. If education was included as a Community competence by the TEU it was held firmly in its place, its place being within the sovereignty of the Nation State, by the notion of subsidiarity.

What are the implications, then, if the TEU and the Treaty of Amsterdam for education and vocational training? Most significantly, a pan-European education policy does not exist (Sprokkereef, 1993). In terms of worker mobility, it is unlikely that there will be any great mass migratory flows within Europe, although there may be more specific and limited intra-industry flows of people with particular skills. If worker mobility is likely to be limited, there will be greater mobility of students and vocational trainers with the expansion and development of the SOCRATES II and LEONARDO II programmes. It is mainly in this area that we can expect to see the development of a no-frontiers education market (Piehl, 1989).

All of this may be depressing for those who believe in employment-led solutions to the continuing problem of European-wide unemployment, but is good news for

higher education. Academic institutions, business and the professions have achieved a great deal under limited and demanding conditions. These partnerships can continue to deliver provided that the means are available (Forrest, 1992). A start has been made by the continuation of the LEONARDO and SOCRATES programmes and the clear recognition that vocational education can be funded by the European Social Fund (Barnard, 1995). It is now the turn of universities and enterprises to demonstrate their continued commitment to the European dimension of education, training and youth.

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